

MEMO ENDORSED

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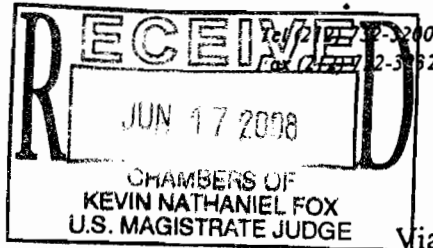
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June 17, 2008

Via Facsimile (212) 805-6712

Hon. Kevin N. Fox
United States Magistrate Judge
United States Courthouse
500 Pearl St., Room 540
New York, NY 10007

Re: **FORECAST CONCOLES INC. v TBC CONSOLES INC. et. al.**
Civil Action No. 07-CV-3106(KMW)(KNF)

Dear Magistrate Judge Fox:

I am Counsel for Defendants in this action and write to request the Court's assistance in moving discovery forward in this case.

This case was filed in April, 2007. The original discovery cutoff date was April 1, 2008. All pre-trial deadlines were extended by 90 days, until July 1, 2008, and extended an additional 30 days by your Honor's order of May 12, 2008.

Both parties have served deposition notices and document requests and mutually agreed to extensions of time to respond in order to accommodate scheduling conflicts and to discuss settlement which initially appeared possible. A settlement conference was held before your Honor on April 7, 2008.

As it was clear after the settlement conference that settlement was unlikely, I wrote to Plaintiff's Counsel, Mr. Bruce Katz on April 11, 2008, outlining what Defendants needed to get ready for trial. That letter is attached as Exhibit A.

Plaintiff produced some of the documents requested by Defendants on April 22, 2008, and agreed to make additional documents available for inspection at Plaintiff's offices. The parties also negotiated a Protective Order.

The agreed to document inspection took place on May 20, 2008, at which time Defendants also produced documents that had been requested by Plaintiff.

Hon. Kevin N. Fox

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We were told that documents identified at the May 20th document inspection would be produced by Plaintiff within about a week, and that previously noticed depositions by Defendants would occur one week after the document production.

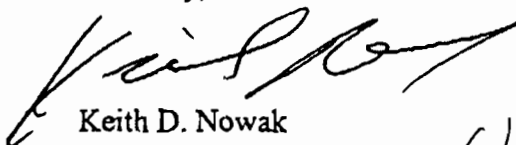
No documents were produced by Plaintiff and no depositions scheduled. On June 2, 2008, I sent Mr. Katz another letter requesting the documents and a deposition schedule (see Exhibit B).

Mr. Katz agreed on June 9, 2008 to produce the documents electronically and to schedule depositions (Exhibit C). I confirmed that I was available for the depositions on the same day (Exhibit D). No documents have been produced, no depositions confirmed, and Plaintiff has not responded to additional emails and phone calls.

Discovery in this case closes August 1, 2008. No depositions have taken place and Plaintiff has not completed document production. In addition, Plaintiff's expert report was due June 15, 2008, and has not been provided.

Counsel for Defendants' respectfully requests a telephone conference to resolve Plaintiff's failure to comply with outstanding discovery requests. }

Sincerely,



Keith D. Nowak

KDN:bf

✓ cc. Bruce Katz, Esq. (by Facsimile)

6/19/08.
Application granted.
A telephonic conference,
initiated by counsel to the
defendants to (212) 805-6705,
will be held on June 24, 2008,
at 10:30 a.m.

SO ORDERED:
Kevin Nathaniel Fox
KEVIN NATHANIEL FOX, U.S.M.J.